IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 1510 of 2007(D)

PETITIONER:

V.N. SANKARANKUTTY, AGED 56 YEARS,
S/O.NARAYANAN, VATTAPARAMBIL
CHERUVATTERI P.O., CHERVOOR, TRICHUR.

BY ADV. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU

RESPONDENTS:
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1. THE KERALA AGRICULTURAL UNIVERSITY
REPRESENTED BY ITS REGISTRAR, KERALA
AGRICULTURAL UNIVERSITY, VELLANIKARA,
TRICHUR.

2. THE DEPUTY DIRECTOR, OFFICE OF
THE DEPUTY DIRECTOR OF LOCAL FUND AUDIT,
KERALA AGRICULTURAL UNIVERSITY,
VELLANIKARA, TRICHUR.

3. THE ASSISTANT COMPTROLLER (P & L)
KERALA AGRICULTURAL UNIVERSITY,
VELLANIKARA, TRICHUR.

4. THE DEPUTY COMPTROLLER,
THE KERALA AGRICULTURAL UNIVERSITY,
VELLANIKARA, TRICHUR.

5. JOINT REGISTRAR (ADMN.)
THE KERALA AGRICULTURAL UNIVERSITY
VELLANIKARA, TRICHUR..

BY ADV. SRI RANJITH THAMPAN
SMT.P.JAYA S.C.FOR AGRL.UTY.TCR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) No. 1510 of 2007

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Dated this the 30th day of July, 2007.

J U D G M E N T

Petitioner is a retired employee of the Kerala Agricultural University. He had joined the service of the University as Light Duty Vehicle (LDV) Driver on October 21, 1975 and retired on May 31, 2006 as Vehicle Supervisor. His primary grievance is that the benefits of grade promotion granted to him in the year 1993 are sought to be taken away from him after his retirement, without any legal or valid reasons.

2. As mentioned earlier, petitioner had joined as LDV Driver on October 2, 1975. He was promoted as Heavy Duty Vehicle (HDV) Driver with effect from January 1, 1984 and was re-designated as HDV Driver, Grade II. It is not in dispute that he was granted 10 years higher grade with effect from October 21, 1985. Still later he was promoted as HDV Grade I on December 1, 1993 and was granted 23 years time bound higher grade with effect from November 1, 1998. Thereafter he was promoted as Vehicle Supervisor with effect from July 1, 2000. He continued in that post till his retirement in 2006.

3. It is beyond controversy that petitioner had been drawing salary and other benefits consequent to the grant of 10 years' higher grade with effect from October 21, 1985 till the date of his retirement. But when it came to sanctioning of his pensionary benefits, it appears, that the Local Fund Audit raised objection with

regard to the grade promotion granted to the petitioner with effect from October 1985. On the face of the above objection raised by the Local Fund Audit, the University has passed Exts.P4 to P8 orders reducing his pension, DCRG etc. Petitioner was also informed that the excess salary and allowances drawn by him would be treated as liability, quantified at Rs.84,799/- and that it would be recovered from his DCRG. The said orders are under challenge in this writ petition.

4. It is contended by the petitioner that the University had placed the petitioner in the higher grade on completion of 10 years with effect from October 21, 1985 by Ext.P1 order dated October 7, 1993. Ext.P1 order was passed on the basis of Exts.P2 and P3 orders issued by the University. The monetary benefits pursuant to the grade promotion was however granted to him with effect from May 15, 1993. Thereafter petitioner had received all the consequential benefits on the basis of the above grade promotion. So long as the order of the University granting the benefits to the petitioner and other similarly placed employees has not been annulled by any competent higher authority, the impugned orders now issued by the University on the basis of some objection raised by the Local Fund Audit cannot be sustained at all, it is contended.

5. In the counter affidavit it is admitted by the University that petitioner was granted 10 years higher grade in the year 1985 and that thereafter the petitioner had received all other consequential benefits. The contention of the University is that petitioner had been promoted as HDV Driver Grade II with effect from January 1, 1984 even before he completed 10 years service. In fact petitioner was granted the benefit

of 10 years grade promotion while he was working as HDV Grade II. Petitioner would have been eligible to get 10 years higher grade if only he had continued in the category of LDV Driver.

6. But a perusal of Exts.P1 to P3 will undoubtedly show that petitioner was granted the benefit of 10 years' higher grade reckoning his total service including that in the category of LDV Driver. There is nothing on record to show that petitioner had any role to play in the grant of higher grade to him which was in fact on the basis of a valid decision taken by the competent authority. Therefore the University ought not to have ordered recovery of his pay and other allowances after his retirement, on the basis of the objection raised by the Local Fund Audit. The University has no case that petitioner was the only beneficiary of Exts.P2 and P3. Several other employees had obtained the benefits under those orders. Exts.P2 and P3 orders were issued way back in the year 1993. Therefore the decision to recover the alleged excess salary and allowances from the petitioner at this distance of time is totally unjust, illegal and arbitrary.

Therefore Exts.P4 to P8 are quashed. Petitioner shall be paid DCRG, pension and other retiral benefits at the rates which he would have been eligible to get, ignoring Exts.P4 to P8. This shall be done as expeditiously as possible at any rate within one month from the date of receipt of a copy of this judgment.

Writ Petition is allowed.

A.K. Basheer
Judge.

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